

Defendants.)

CIV-13-1129-R

**STIPULATED CONSENT JUDGMENT AGAINST LXE COUNSELING, LLC,
AND LEXIE DARLENE GEORGE a/k/a LEXIE DARLENE BATCHELOR
IN FAVOR OF THE UNITED STATES AND STATE OF OKLAHOMA**

Advised by the parties of their desire to enter into a Stipulated Consent Judgment,
the Court finds as follows:

1. The Court has jurisdiction over the subject matter and the parties to this litigation.

2. The United States of America (“United States”) and the State of Oklahoma (collectively, “Plaintiffs”) and defendants LXE Counseling, LLC (“LXE”) and Lexie

Darlene George a/k/a Lexie Darlene Batchelor (“Batchelor”), have agreed to entry of a judgment against LXE and Batchelor, resolving the claims in the Plaintiffs’ Complaint which assert civil claims for violations of the False Claims Act, 31 U.S.C. §§ 3729, *et seq.*, the Oklahoma Medicaid False Claims Act, 63 O.S. § 5053, *et seq.*, and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §§ 1001, *et seq.*, and under common law or equitable causes of action for breach of contract, constructive fraud, payment under mistake of fact and unjust enrichment.

3. Plaintiff United States brings the action on behalf of the United States Department of Health and Human Services (“HHS”), including its component, the Centers for Medicare and Medicaid Services (“CMS”), which provides funding for Medicaid.

4. Plaintiff State of Oklahoma brings this action on behalf of itself and one of its agencies, the Oklahoma Health Care Authority (“OHCA”), which administers the Oklahoma Medicaid program known as “SoonerCare.”

5. Defendant LXE is a limited liability company registered in the State of Oklahoma that holds itself out as providing behavioral and mental health counseling to Medicaid members throughout various offices in Oklahoma.

6. Defendant Batchelor is the owner and CEO of LXE.

7. LXE and Batchelor had SoonerCare Provider Agreements on file with OHCA at all relevant times certifying that the claims submitted to the OHCA were provided by properly credentialed and licensed providers who rendered the services for which the specific claims were submitted; were truthful, accurate and complete; and were in

compliance with all applicable Federal and State regulations, provider billing and procedure manual instructions.

8. LXE and Batchelor each consent to the entry of an agreed judgment on the following claims in violation of the False Claims Act, 31 U.S.C. §§ 3729, *et seq.*, the Oklahoma Medicaid False Claims Act, 63 O.S. § 5053, *et seq.*, and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §§ 1001, *et seq.*:

a. From approximately November 3, 2010 through September of 2011, LXE and Batchelor submitted or caused to be submitted¹ 1,075 H0004 psychotherapy claims for services provided by Randy Tate who was not qualified to provide psychotherapy services. LXE collected \$106,520.37 for these services.

b. From March 8, 2011 through October 27, 2011, LXE and Batchelor submitted or caused to be submitted 1,260 psychotherapy claims for services provided by Gina Redwine, although she was not meeting her supervision requirements and not qualified to provide the services. LXE collected \$129,066.54 for these services.

c. From January 1, 2013, through December 31, 2014, LXE and Batchelor submitted or caused to be submitted 1,548 psychotherapy and rehabilitation claims for which Batchelor or some other employee of LXE “fished” at least three times to find a date and/or time that did not trigger an internal billing error code. LXE collected \$109,199.90 for these services.

d. From August 22, 2014 through October 29, 2014, LXE and Batchelor submitted or caused to be submitted 80 claims for which the dates of service, procedure codes, and/or session lengths were chosen because Batchelor or some other employee “fished” for a

¹ The United States and the State of Oklahoma have alleged that “LXE and Batchelor submitted or caused to be submitted” the enumerated claims in Paragraphs 8(a)-(k) which includes claims using their respective provider numbers and those claims submitted by LXE while Batchelor served as owner and CEO of LXE.

date of service or service code eligible for reimbursement following a regulatory change that made these claims ineligible for payment on the date actually rendered. LXE collected \$5,092.59 for these services.

e. From September 2010 through September 2011, LXE and Batchelor submitted or caused to be submitted 585 claims for face-to-face services performed by Batchelor that were double-billed (i.e. billed under different names for Batchelor). LXE collected \$27,128.78 for these services.

f. LXE and Batchelor submitted or caused to be submitted six claims for face-to-face services purportedly performed on October 30, 2011, while Batchelor was attending a funeral service. LXE and Batchelor collected \$212.22 for these services.

g. LXE and Batchelor submitted 17 claims for face-to-face services purportedly performed on January 25-26, 2011, while they were attending a wedding. LXE and Batchelor collected \$1,546.32 for these services.

h. Batchelor and LXE submitted five claims for face-to-face services purportedly provided on April 4, 2012, while she on an RV trip to New Mexico. LXE and Batchelor collected \$500.40 for these services.

i. LXE and Batchelor submitted 29 claims for face-to-face services purportedly provided on August 7-13, 2011, while she was on a trip to California. LXE and Batchelor collected \$2,934.10 for these services.

j. From August 15, 2012 to December 29, 2014, LXE and Batchelor submitted or caused to be submitted 349 claims for telemedicine services performed by nine different rendering providers, when LXE and the providers were not authorized or approved by OHCA to submit telemedicine claims. LXE collected \$27,809.72 for these services.

k. From approximately February 1, 2013 through July 6, 2015, LXE and Batchelor submitted or caused to be submitted 16,434 claims for Psychosocial Rehabilitation treatment services (“PSR”) given to Level of Care 4 members who never received any psychotherapy services even though they were assessed by Batchelor or some other LXE employee to require psychotherapy services and OHCA regulation allowed PSR treatments only as adjunct (enhancing) interventions to compliment psychotherapy. LXE collected \$1,133,689.59 for these services.

9. LXE and Batchelor consent that the above described claims were so submitted, or were caused to be submitted, with the requisite factual and legal elements existing to establish that any and all such claims are to be deemed non-dischargeable under the Bankruptcy Code, pursuant to 11 U.S.C. §§ 523(a)(2), (6) and (7), and § 1141(d)(6).

10. LXE and Batchelor do not contest that the United States and State of Oklahoma sustained cumulative single damages in the amount of \$1,543,700.53.

11. Pursuant to the False Claims Act, 31 U.S.C. § 3729(a)(1)(A)(2009), LXE and Batchelor consent to be liable to the United States for a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each false or fraudulent Claim, plus three (3) times the amount of damages sustained by the United States.

12. Pursuant to the Oklahoma Medicaid False Claims Act, 63 O.S. §5053.1(B)(2), LXE and Batchelor consent to be liable to the State of Oklahoma for a civil penalty of not less than \$5,000.00 and not more than \$10,000.00 for each false or fraudulent Claim, plus three (3) times the amount of damages sustained by the State of Oklahoma.

13. The parties stipulate that treble damages is a total of \$4,631,101.50.

14. The parties stipulate that although 21,388 claims lines were submitted, the Court should impose only one civil penalty of \$11,000 for each of the eleven fraud theories set out above in Paragraph theory 8, for a total of \$121,000.


15. LXE and Batchelor have agreed to waive any appeal of this civil fraud judgment they may now have or may acquire in the future.

16. Any funds held by the OHCA for claims submitted by LXE can be immediately applied towards the satisfaction of this judgment in favor of the United States and the State of Oklahoma.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of the United States of America and the State of Oklahoma and against LXE Counseling, LLC, and Lexie Darlene George a/k/a Lexie Darlene Batchelor, jointly and severally, as follows:

1. Treble damages totaling \$4,631,101.50; and
2. Penalties totaling \$121,000; and
3. Interest accruing at the rate allowed by law until paid.

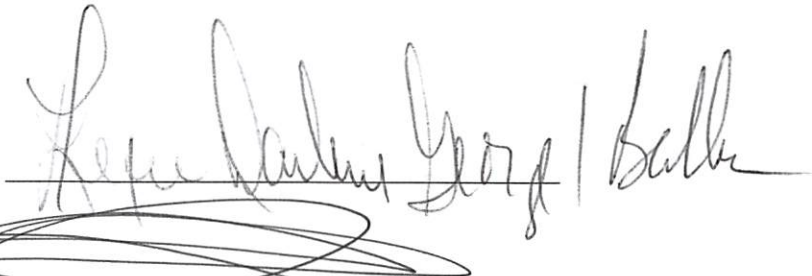
DATED this 29th day of July, 2016.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

STIPULATED AND AGREED TO:

LEXIE DARLENE GEORGE A/K/A
LEXIE DARLENE BATCHELOR



COUNSEL FOR DEFENDANTS
LXE COUNSELING, LLC AND
LEXIE DARLENE GEORGE A/K/A
LEXIE DARLENE BATCHELOR:

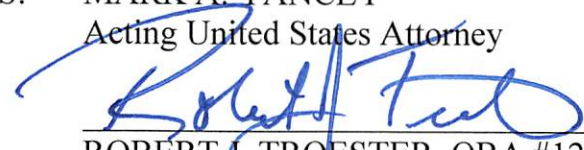


Joseph H. Bocock OBA #0906
Ronald T. Shinn Jr. OBA #19569
Michael K. Avery OBA #22476
MCAFEE & TAFT A PROFESSIONAL
CORPORATION
10th Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102-7103
Telephone: (405) 235-9621
Facsimile: (405) 235-0439
joseph.bocock@mcafeetaft.com
ron.shinn@mcafeetaft.com
michael.avery@mcafeetaft.com

COUNSEL FOR UNITED STATES:

MARK A. YANCEY

Acting United States Attorney



ROBERT J. TROESTER, OBA #12516
AMANDA R. JOHNSON, OBA #32575
Assistant U.S. Attorneys
United States Attorney's Office
Western District of Oklahoma
210 Park Avenue, Suite 400
Oklahoma City, OK 73102
(405) 553-8700 - FAX 553-8885
Robert.Troester@usdoj.gov
Amanda.Johnson3@usdoj.gov

COUNSEL FOR THE STATE
OF OKLAHOMA:

E. SCOTT PRUITT
Oklahoma Attorney General



Niki S. Batt, OBA #20157
Christopher Robinson, OBA #31204
Assistant Attorneys General
313 N.E. 21st Street
Oklahoma City, OK 73105
(405) 521-4274
(405) 522-4875 (fax)
Niki.Batt@oag.ok.gov
Christopher.Robinson@oag.ok.gov

COUNSEL FOR RELATORS:



ALLISON LEGAL, PLLC
Wayne Allison, Ok Bar No. 21933
915 S. Bryant Ave., Ste A
Edmond, Oklahoma 73034
Tel: (405)-657-5252; cell 405-250-2782
Fax: (866) 266-2781
wayne@allisonlegal.com